

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN DARE,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Civil Action No. 06-115 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on May 17, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 20], filed on May 31, 2007, recommended that Defendants' motion to dismiss, or alternatively, for summary judgment [Doc. No. 13] be granted; that the retaliation claim be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A and 42 U.S.C. § 1997e(c) due to Plaintiff's failure to state a claim; and that Plaintiff's motion to amend the complaint [Doc. No. 19] be denied as futile. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motions and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 21<sup>st</sup> day of June, 2007;

IT IS HEREBY ORDERED that Defendants' motion to dismiss, or alternatively, for summary judgment [Doc. No. 13] is GRANTED; the retaliation claim is DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A and 42 U.S.C. § 1997e(c) due to Plaintiff's failure to state a claim; and Plaintiff's motion to amend the complaint [Doc. No. 19] is DENIED as futile.

The Report and Recommendation [Doc. No. 20] of Magistrate Judge Baxter, filed on May 31, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge